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MAILED

JUN 08 2010

OFFICE OF PETITIONS

In re Application of :
James Alfred White :
Application No. 10/822,276 : **DECISION ON PETITION**
Filed: April 12, 2004 :
For: SPIRAL SLICE POTATO CUTTER :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed January 16, 2009, is accepted as having been unintentionally delayed.

Additionally, as to a refund of the petition fee, applicant is encouraged to note MPEP 711.03 (c) which states that:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 (“[t]he fees set forth in this section are due on filing the petition”). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

In view of the above, the petition fee submitted on April 15, 2010, will not be refunded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business on the filing of the Request for Continued Examination (RCE) and amendment.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions